

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1062

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AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 5-1-5-2.5, AS AMENDED BY P.L.257-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) As used in this section, "eligible school corporation" means a school corporation (as defined in IC 36-1-2-17) that satisfies all the conditions required by this section.

(b) As used in this section, "increment" means the annual difference between:

- (1) the annual debt service payment for the bonds proposed to be retired or refunded; and
- (2) the annual debt service payment for the proposed refunding bonds;

for each year that the bonds that are being retired or refunded would have been outstanding.

(c) In order for a school corporation to be an eligible school corporation under this section, the school corporation must determine that the percentage computed under this subsection for the school corporation is at least twenty percent (20%), regarding the year for which the latest certified levies have been determined. A school corporation shall compute its percentage as follows:

- (1) Compute the amount of credits granted under IC 6-1.1-20.6 against the school corporation's combined levy for the school

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corporation's:

- (A) debt service fund, as described in IC 20-46-7-15;
- (B) capital projects fund;
- (C) transportation fund;
- (D) school bus replacement fund; and
- (E) racial balance fund.

(2) Compute the school corporation's combined levy for the school corporation's:

- (A) capital projects fund;
- (B) transportation fund;
- (C) school bus replacement fund; and
- (D) racial balance fund.

(3) Divide the amount computed under subdivision (1) by the amount computed under subdivision (2) and express it as a percentage.

A school corporation that desires to be an eligible school corporation under this section must submit a written request for a certification by the department of local government finance that the computation of the school corporation's percentage computed under this subsection is correct. The department of local government finance shall, not later than ten (10) working days after the date the department receives the school corporation's request, certify the percentage computed under this subsection for the school corporation.

(d) A school corporation that desires to be an eligible school corporation under this section ~~must satisfy the following conditions: (1) The school corporation~~ shall conduct a public hearing and provide notice of the **purpose of the hearing and the** time, date, and place of the hearing, published as required by IC 5-3-1, before the school corporation may adopt a resolution under this section. At the public hearing, the governing body must provide the following information:

- ~~(A)~~ **(1)** The annual debt service payments, applicable debt service tax rate, and total debt service payments for the bonds proposed to be retired or refunded.
  - ~~(B)~~ **(2)** The annual debt service payments, applicable debt service fund tax rate, and total debt service payments for the proposed refunding bonds.
  - ~~(C)~~ **(3)** The annual increment for each year that the bonds that are being retired or refunded would have been outstanding and any other benefits to be derived from issuing the refunding bonds.
- ~~(2) The requirements of this subdivision do not apply to a school corporation that adopts a resolution under subsection (g) before January 1, 2014, and that has a percentage computed under~~



subsection (c) that is at least twenty percent (20%); as certified by the department of local government finance. If the amount determined under subsection (c)(3) is:

(A) more than forty-five percent (45%); notwithstanding IC 6-1.1-20-3.1(a) and IC 6-1.1-20-3.2(a); the school corporation shall use the petition and remonstrance process prescribed by IC 6-1.1-20-3.1(b) and IC 6-1.1-20-3.2(b) and more individuals must sign the petition for the bond refunding under this section than the number of individuals signing a remonstrance against the bond refunding; or

(B) at least thirty percent (30%) but not more than forty-five percent (45%); the school corporation shall conduct a referendum on a public question regarding the bond refunding using the process for a referendum tax levy under IC 20-46-1 and the bond refunding must be approved by the eligible voters of the school corporation. The question to be submitted to the voters in the referendum must read as follows:

"Shall \_\_\_\_\_ (insert the name of the school corporation) issue refunding bonds to refund not more than fifty percent (50%) of its outstanding bonds to provide an annual savings to the school's debt service fund that can be transferred from the school's debt service fund to the school's capital projects fund; transportation fund; or school bus replacement fund?"

(3) The requirements of this subdivision apply to a school corporation that adopts a resolution under subsection (g) before January 1, 2014; and that has a percentage computed under subsection (c) that is at least twenty percent (20%); as certified by the department of local government finance. The school corporation must either:

(A) have the distressed unit appeal board approve the school corporation's financial plan for paying any refunding bonds issued under this section; as provided in subsection (e); or

(B) meet all of the following conditions:

(i) The ratio that the amount of the school corporation's debt (as determined in December 2010) bears to the school corporation's 2011 ADM ranks in the ten (10) highest among all school corporations;

(ii) The ratio that the amount of the school corporation's debt (as determined in December 2010) bears to the school corporation's total assessed valuation for calendar year 2011 ranks in the ten (10) highest among all school corporations;

(iii) The amount of homestead assessed valuation in the



school corporation for calendar year 2011 was at least sixty percent (60%) of the total amount of assessed valuation in the school corporation for calendar year 2011.

(e) A school corporation meets the requirement of subsection (d)(3)(A) if:

- (1) the school corporation submits to the distressed unit appeal board the school corporation's financial plan for paying any refunding bonds issued under this section; and
- (2) the distressed unit appeal board approves the plan after making a determination that the financial plan is feasible.

The distressed unit appeal board must either approve or disapprove the financial plan not more than sixty (60) days after the later of the date the school corporation submits the financial plan under this subsection or the date on which the department of local government finance certifies the percentage computed for the school corporation under subsection (e). The distressed unit appeal board may not unreasonably deny approval of a school corporation's financial plan under this subsection.

(e) If at least one (1) taxpayer appearing at the public hearing under subsection (d) objects to the proposed resolution and files a written objection with the governing body of the school corporation and the county auditor not more than ten (10) days after the public hearing, a petition requesting the application of a petition and remonstrance process may be filed not more than thirty (30) days after the public hearing by one hundred (100) persons who are either owners of property within the school corporation or registered voters residing within the school corporation. Except as provided in this subsection, the provisions of IC 6-1.1-20-3.1(b) governing the initiation of a petition and remonstrance process for a controlled project (including the provisions governing verification of petitions) apply to a petition under this subsection requesting the application of a petition and remonstrance process. The following apply if a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in this subsection:

- (1) The petition and remonstrance process prescribed by IC 6-1.1-20-3.2(b) for controlled projects shall be used to determine whether the governing body of the school corporation may adopt a resolution under subsection (g) and issue refunding bonds as provided in subsection (g).
- (2) The governing body of the school corporation may not adopt a resolution under subsection (g) and may not issue



**refunding bonds as provided in subsection (g) unless more individuals sign the petition for the bond refunding under this subsection than the number of individuals signing a remonstrance against the bond refunding under this subsection.**

**Except as provided in this subsection, the provisions of IC 6-1.1-20-3.2(b) governing the petition and remonstrance process for a controlled project apply to a petition and remonstrance process under this subsection.**

(f) Except as provided in subsection ~~(d)(2)(A)~~; **(e)**, IC 6-1.1-20 does not apply to bonds issued under this section.

(g) A school corporation that desires to be an eligible school corporation under this section must, before January 1, ~~2014~~, **2019**, and notwithstanding any other law, adopt a resolution that sets forth the following:

(1) The determinations made under subsection (c), including the department of local government finance's certification of the percentage computed under subsection (c).

~~(2) The requirements of this subdivision do not apply to a resolution adopted under this subsection before January 1, 2014; if the school corporation has a percentage computed under subsection (c) that is at least twenty percent (20%); as certified by the department of local government finance. The result of the petition remonstrance process under subsection (d)(2)(A) or the result of the vote on the public question under subsection (d)(2)(B); whichever applies.~~

~~(3)~~ **(2)** A determination providing for the:

(A) issuance of bonds to refund not more than fifty percent (50%) of outstanding bonds or leases issued by or on behalf of the school corporation **before January 1, 2009**; and

(B) payment of redemption premiums and the costs of the refunding.

~~(4)~~ **(3)** With respect to the refunding bonds, the following:

(A) The maximum principal amount.

(B) The maximum interest rate.

(C) The annual lease or debt service payment.

(D) The final maturity date.

(E) The estimated amount of the increment that will occur for each year that the bonds that are being retired or refunded by the issuance of refunding bonds would have been outstanding.

(F) A finding that the annual debt service or lease payment on the refunding bonds will not increase the annual debt service



or lease payment above the annual debt service or lease payment approved by the school corporation for the original project.

If the governing body adopts a resolution under this section, the governing body must publish notice of the adoption of the resolution as required by IC 5-3-1.

(h) An eligible school corporation may issue refunding bonds as permitted by this section. In addition, an eligible school corporation may extend the repayment period beyond the repayment period for the bonds that are being retired or refunded by the issuance of refunding bonds. However, the repayment period may be extended only once for a particular bond, and the extension may not exceed ten (10) years after the latest maturity date for any of the bonds being retired or refunded by the eligible school corporation under this section.

(i) Property taxes imposed by an eligible school corporation to pay debt service for bonds permitted by this section shall be considered for purposes of calculating the limits to property tax liability under Article 10, Section 1 of the Constitution of the State of Indiana and for calculating a person's credit under IC 6-1.1-20.6-7.5. However, property taxes imposed by an eligible school corporation through December 31, 2019, to pay debt service for bonds permitted by this section may not be considered in an eligible county, as used in Article 10, Section 1(h) of the Constitution of the State of Indiana, for purposes of calculating the limits to property tax liability under Article 10, Section 1 of the Constitution of the State of Indiana or for calculating a person's credit under IC 6-1.1-20.6-7.5.

~~(j) If a school corporation described in subsection (d)(3)(B) issues refunding bonds as permitted by this section, the school corporation must, not more than sixty (60) days after the department of local government finance certifies the school corporation's percentage under subsection (c), report information concerning the refunding to the distressed unit appeal board. The distressed unit appeal board shall make a non-binding review with recommendations regarding the school's financial condition and operating practices.~~

SECTION 2. IC 6-1.1-17-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 22. (a) In determining the amount of the levy for a debt service fund for an ensuing year, the maximum amount allowed for an operating balance in the debt service fund is the sum of:**

**(1) fifteen percent (15%) of the budget estimate for the debt service fund for the ensuing year for debt originally incurred**



after June 30, 2014; plus

(2) fifty percent (50%) of the budget estimate for the debt service fund for the ensuing year for debt originally incurred before July 1, 2014.

If debt is refinanced, the date the refinanced debt was originally incurred, and not the date that the refinancing is closed, is the date to be used for purposes of this subsection.

(b) For purposes of IC 6-1.1-20.6-9.5, the property taxes allowed for an operating balance in the debt service fund under this section may not be construed as an increase in a political subdivision's property tax levy to make up for a reduction in property tax collections resulting from the application of credits under IC 6-1.1-20.6.

SECTION 3. IC 6-1.1-20.6-9.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.9. (a) A school corporation is eligible to allocate credits proportionately under this section for 2014, 2015, or 2016, if the school corporation's percentage computed under this subsection is at least ten percent (10%) for its transportation fund levy for that year, as certified by the department of local government finance. A school corporation shall compute its percentage under this subsection as follows:

- (1) Compute the amount of credits granted under this chapter against the school corporation's levy for the school corporation's transportation fund.
- (2) Compute the school corporation's levy for the school corporation's transportation fund.
- (3) Divide the amount computed under subdivision (1) by the amount computed under subdivision (2) and express it as a percentage.

The computation must be made by taking into account the requirements of section 9.8 of this chapter regarding protected taxes and the impact of credits granted under this chapter on the revenue to be distributed to the school corporation's transportation fund for the particular year.

(b) A school corporation that desires to be an eligible school corporation under this section must, before May 1 of the year for which it wants a determination, submit a written request for a certification by the department of local government finance that the computation of the school corporation's percentage under subsection (a) is correct. The department of local government finance shall, not later than June 1 of that year, determine whether



the percentage computed by the school corporation is accurate and certify whether the school corporation is eligible under this section.

(c) For a school corporation that is certified as eligible under this section, the school corporation may allocate the effect of the credits granted under this chapter proportionately among all the school corporation's property tax funds that are not exempt under section 7.5(b) or 7.5(c) of this chapter, based on the levy for each fund and without taking into account the requirements of section 9.8 of this chapter regarding protected taxes.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) IC 6-1.1-17-22, as added by this act, applies to property taxes first due and payable after December 31, 2014.

(b) This SECTION expires January 1, 2016.

SECTION 5. An emergency is declared for this act.





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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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